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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,436	07/07/2003	Roy Higgs		2612

7590
J. John Shimazaki
P.O. Box 650741
Sterling, VA 20165

03/09/2005

EXAMINER

FAULK, DEVONA E

ART UNIT PAPER NUMBER

2644

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,436	Applicant(s) HIGGS, ROY	
	Examiner Devona E. Faulk	Art Unit 2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. The term "substantially prevents" in claim 9 is a relative term which renders the claim indefinite. The term "substantially prevents" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. See MPEP § 2173.05(b).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-4,6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria" by Roy Higgs (August 2000, see pg. 14 of source code) in view of Herzfeld et al. (U.S. Patent 3,131,351).

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Regarding claims 1, 10 and 14, Higgs discloses a shopping mall complex comprising: at least one multi-level parking garage having a top floor thereon, wherein said parking garage is connected to or otherwise located at or near said shopping mall or other complex (top floor of mall) ; a drive-in movie theater on said top floor, wherein said theater comprises a screen for projecting moving images thereon (screen). Higgs fails to disclose a short-range radio broadcast sound system that enables moviegoers on the top floor to listen to movies on preselected channels on sound systems in their own cars. This concept was well known in the art at the time of filing as taught by Herzfeld. Herzfeld discloses a discloses a short range radio information system (column 4, lines 14-24) and an outdoor theater system (Figure 1) including a control means (variable inductance coil; Figures 1 and 5; column 3, lines 3-28) that controls the frequency adjustment of transmitters. Herzfeld discloses additionally that the sound system comprises multiple on or above ground transmitter intermittently located on the top floor for sending broadcast signals through the air and broadcasting the sound using an FM transmission (Figure 2). Herzfeld further teaches that various transmitter units are set to transmit at different frequencies (column 3, lines 3-28). Herzfeld further teaches of a control mechanism for controlling, adjusting and setting the frequencies of the signals transmitted by said transmitters as claimed. It would have been obvious to modify Higgs to have the features of Herzfeld in order to provide clear perception to all vehicles (column 4, lines 14-22).

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The method of claim 14 is obvious in the operation/functionality of the drive-in movie theater.

All elements of claims 2,4,6,9,11-13,15-19 are comprehended by the rejection given above apropos of claims 1,10 and 14.

Claim 3 claims the mall or complex of claim 2, wherein each of said transmitters is adapted to broadcast radio signals through the air to cars located on said top floor without having to use any existing underground speaker wiring. Claim 16 claims the method of claim 14 comprising broadcasting said sound from said transmitters located on or above ground without having to use any existing underground speaker wiring. Herzfeld discloses broadcasting sound from transmitters without using existing underground speaker wiring. Wire conductors (20) can be located above ground. (column 2, lines 35-50). He further teaches that the speakers could be eliminated (column 4, lines 6-11). All elements of claims 3 and 16 are comprehended by claims 2 and 14.

Claim 7 claims the mall or complex of claim 1, comprising a second parking garage within an events center on a top floor thereof, wherein said events center comprises an outdoor auditorium with stadium type seating. Claim 8 claims the mall or complex of claim 7, wherein a restaurant and/or other establishment is provided adjacent said event center, wherein persons in said restaurant and/or other establishment can view activities taking place in said events center. Higgs further discloses that a food court will be adjacent to the new cinema (page 2, under Re-merchandising section) and further discloses

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a Roman amphitheatre styled events center including stadium seating (Picture No. 4, page 2; Picture No. 7, top of page 4; See Re-merchandising section, page 2). All elements of claim 7 are comprehended by claim 1. Therefore, claim 7 is rejected for reasons given above apropos of claim 1.

Claim 20 claims the method of claim 17 comprising marking said areas with the appropriate frequencies to enable moviegoers in each of said areas to know what frequency to set their radios to listen to the movie sound. Herzfeld further teaches that various transmitter units are set to transmit at different frequencies. It would be obvious to provide some indication to the moviegoer, according to where they are located, the frequency they need to set their radios to so that they can hear the movie.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over "Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria" by Roy Higgs (August 2000, see page 14 of source code) in view of Herzfeld et al. (U.S. Patent 3,131,351) in further view of Clark (U.S. Patent 2,791,002) in further view of Allen (U.S. Patent 3,422,581).

Claim 5 claims the mall or complex of claim 1, wherein said top floor has a first portion on which said screen is located, and a second portion on which a dwelling for housing a projector is located, wherein multiple inclined spaces on which cars can be parked for view said screen are positioned between said first and second portions on said top floor, and wherein food and drink services are provided

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within said dwelling on said top floor. Higgs as modified fails to disclose a dwelling for housing a projector and food and drink services. However, this concept was well known in the art at the time of filing as taught by Clark. Clark discloses an outdoor theater and screen structure having a dwelling as claimed (column 3, lines 8-11). Therefore, it would have been obvious to have food and drink services housed in the dwelling that houses the projector in order to have food and drinks readily accessible to the moviegoers. Higgs as modified fails to disclose multiple inclined spaces as claimed. However, this concept was well known in the art as taught by Allen. Allen discloses a drive-in theater having multiple inclined spaces (Figure 4; column 2, lines 40-55). Thus it would have been obvious to have inclined spaces in order to provide unimpeded line-of-sight for each vehicle.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 703-305-4359. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 703-305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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SUPERVISORY PATENT EXAMINER

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